

HOUSE BILL 3399
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 49;
Title 56 and Title 68, and to enact the "Pregnancy
Resources for Tennessee Women Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as, the "Pregnancy Resources for Tennessee Women Act".

SECTION 2. The department of health shall develop a comprehensive informational pamphlet for distribution upon request to Tennessee licensed physicians. The pamphlet shall contain: a list of public and private health care services available to women during pregnancy and after the birth of a child, whether the women wish to keep their children or place them for adoption; public and private adoption resources available in the state, including but not limited to the surrender of an infant without criminal liability pursuant to §68-11-255; and public and private services available, pursuant to Title X of the federal Public Health Service Act, to assist women in preventing future pregnancies. The pamphlet shall contain the name, address and telephone number of public and private organizations, health care facilities, or other persons providing these services; provided, that the commissioner of health may promulgate such rules in the commissioner's discretion as are necessary for any public or private organization, health care facility, or other person to qualify for inclusion in the pamphlet. The department shall make the pamphlet available to physicians by no later than January 1, 2007.

SECTION 3. The department of health shall develop a toll-free telephone hotline for pregnant women or other interested parties to obtain information about: public and private health care services available to women during pregnancy and after the birth of a child, whether the women wish to keep their children or place them for adoption; public and private adoption

resources available in the state, including but not limited to the surrender of an infant without criminal liability pursuant to §68-11-255; and public and private services available, pursuant to Title X of the federal Public Health Service Act, to assist women in preventing future pregnancies. The department shall operate the toll-free telephone hotline no fewer than eight (8) hours per day for no fewer than five (5) days per week, during normal business hours, and shall publicize the hotline through the use of media which may include radio, television, newspaper, billboard or other advertisements. The commissioner of health may promulgate such rules, in the commissioner's discretion, as are necessary for any public or private organization, health care facility, or other person to qualify for inclusion in the information distributed pursuant to the hotline. The department shall make the hotline available by no later than January 1, 2007.

SECTION 4. Tennessee Code Annotated, Section 49-6-1005, is amended by deleting subsection (a) thereof and by substituting instead the following:

(a) It is unlawful for any person in any manner to teach courses in sex education pertaining to homo sapiens in the public, elementary, junior high or high schools in this state unless the courses are approved by the state board of education and the local school board involved, and taught by qualified instructors as determined by the local school board involved. Any such course in sex education shall, in addition to teaching facts concerning human reproduction, hygiene and health concerns, include presentations encouraging abstinence from sexual intercourse during the teen and pre-teen years and stating that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases. Any such course in sex education shall also include factually accurate information concerning the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy or to prevent contracting sexually transmitted diseases, shall encourage family communication about

sexuality between parent and child, and shall teach young people skills involved in making responsible decisions about sexuality, including how to avoid unwanted sexual advances, how not to make unwanted sexual advances, and how alcohol and drug use can effect responsible decision making. With respect to sex education courses otherwise offered in accordance with the requirements of this subsection (a), no instructor shall be construed to be in violation of this section for answering in good faith any question, or series of questions, germane and material to the course, asked of the instructor and initiated by a student or students enrolled in the course.

SECTION 5. Tennessee Code Annotated, Title 56, Chapter 7, Part 25, is amended by adding the following language as a new, appropriately designated section:

(a) Notwithstanding any other provision of law to the contrary, any individual, franchise, blanket, or group health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, health maintenance organization, preferred provider organization, or managed care organization which provides hospital, surgical, or medical expense insurance shall provide coverage under any such policy, contract, or plan for prescription contraceptive drugs or devices approved by the federal food and drug administration to prevent pregnancy or generic equivalents approved as substitutable by the federal food and drug administration if such plan provides coverage for other outpatient prescription drugs or devices.

(b) The provisions of this section are applicable to all health benefit policies, programs, or contracts which are offered by commercial insurance companies, nonprofit insurance companies, health maintenance organizations, preferred provider organizations, and managed care organizations, and which are entered into, delivered, issued for delivery, amended, or renewed after January 1, 2007.

(c) Reimbursement for prescription contraceptive drugs and devices shall be determined according to the same formula by which charges are developed for other outpatient prescription drugs and devices. Such coverage shall have durational limits, dollar limits, deductibles, copayments, and coinsurance factors that are no less favorable than for other types of outpatient prescription drugs and devices generally.

(d) Nothing in this section shall be construed to prohibit any insurer from providing medical benefits greater than or more favorable to the insured than the benefits established pursuant to this section.

(e) The provisions of this section shall not apply to short term travel policies, short term nonrenewable policies of not more than six (6) months' duration, accident only policies, limited or specific disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or governmental plans, including the TennCare and Medicaid programs.

SECTION 6. Tennessee Code Annotated, Title 56, Chapter 7, Part 25, is amended by adding the following language as a new, appropriately designated section:

(a) Notwithstanding any other provision of law to the contrary, any individual, franchise, blanket, or group health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, health maintenance organization, preferred provider organization, or managed care organization which provides hospital, surgical, or medical expense insurance shall not deny coverage under any such policy, contract, or plan for obstetrical services to a pregnant woman insured on the basis that the pregnancy was a pre-existing condition if such plan otherwise provides coverage for obstetrical services for insureds who become pregnant after enrollment in such policy, contract or plan.

(b) The provisions of this section are applicable to all health benefit policies, programs, or contracts which are offered by commercial insurance companies, nonprofit insurance companies, health maintenance organizations, preferred provider organizations, and managed care organizations, and which are entered into, delivered, issued for delivery, amended, or renewed after January 1, 2007.

(c) Reimbursement for obstetrical services for insureds who are pregnant at the time of their enrollment shall be determined according to the same formula by which charges are developed for obstetrical services for other insureds. Such coverage shall have durational limits, dollar limits, deductibles, copayments, and coinsurance factors that are no less favorable than for other types of obstetrical services generally.

(d) Nothing in this section shall be construed to prohibit any insurer from providing medical benefits greater than or more favorable to the insured than the benefits established pursuant to this section.

(e) The provisions of this section shall not apply to short term travel policies, short term nonrenewable policies of not more than six (6) months' duration, accident only policies, limited or specific disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or governmental plans, including the TennCare and Medicaid programs.

SECTION 7. Tennessee Code Annotated, Title 68, Chapter 5, Part 5, is amended by inserting the following as a new, appropriately designated section thereto:

Any person who offers or provides to a pregnant woman a testing or screening service to detect genetic disorders in that woman's fetus shall inform the woman in a medically and statistically accurate manner of the likelihood that a positive result of such test or screen might be a false positive. For a person who is a licensed physician or

osteopathic physician in this state, a violation of this section may be considered a violation of the practice act governing that person pursuant to title 63, chapter 6 or title 63, chapter 9, respectively. In addition, a violation of this section may be considered a violation of the licensure requirements governing any facility licensed by the department pursuant to this title where the testing or screening service was provided.

SECTION 8. Tennessee Code Annotated, Section 68-11-255, is amended by deleting subsection (a)(1) thereof and by substituting instead the following:

(1) "Facility" means any hospital as defined by §68-11-201, birthing center as defined by §68-11-201, community health clinic, outpatient "walk-in" clinic, local department of health clinic, local office of the department of human services, or local fire department or police station.

SECTION 9. The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 10. This act shall take effect July 1, 2006, the public welfare requiring it.